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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re MACKENZIE B. et al., Persons
Coming Under the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

LOUIS T.,

Defendant and Appellant.

D062379

(Super. Ct. No. EJ3314A-B)

APPEAL from a judgment of the Superior Court of San Diego County, Carol
Isackson, Judge. Reversed and remanded with directions.

Louis T. appeals the July 2012 judgment terminating his parental rights to his
children, Mackenzie B. and Madison B. (the children) (Welf. & Inst. Code, § 366.26).

Louis contends the San Diego County Health and Human Services Agency (the Agency)

and the juvenile court failed to comply with the inquiry and notice requirements of the Indian Child Welfare Act (ICWA) (25 U.S.C. § 1901 et seq.).

In November 2010, at the outset of this case, the children's mother and maternal grandmother said the maternal grandfather had Cherokee heritage. The mother and maternal grandmother "both denied that [the maternal grandfather] was registered but said that they believe that they have enough Cherokee blood to qualify for tribe membership." On November 10, and again on December 14, the court ordered the mother to complete an ICWA-030 form (Cal. Rules of Court, rule 5.481(a)(4)(A) [Notice of Child Custody Proceeding for Indian Child]). The record on appeal contains no such form, and no evidence of ICWA inquiry or notice regarding the statements of the children's mother and maternal grandmother. On April 7, 2011, the court found ICWA did not apply.

The Agency correctly concedes a limited remand is necessary to effect and document proper ICWA inquiry and notice.

DISPOSITION

The judgment terminating parental rights is reversed. The case is remanded to the juvenile court with directions to order Agency to (1) conduct an ICWA inquiry; (2) provide ICWA notice to any tribes the inquiry identifies; and (3) file all required documentation with the juvenile court. If, after proper notice, a tribe claims the children are Indian children, the juvenile court shall proceed in conformity with ICWA. If, on the other hand, no tribe makes such a claim, the court shall reinstate its judgment terminating parental rights.

NARES, Acting P. J.

WE CONCUR:

McINTYRE, J.

AARON, J.